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(11)

No. 05-1631

IN THE

Supreme Court of the United States

TIMOTHY SCOTT, A COWETA COUNTY, GEORGIA DEPUTY SHERIFF, *Petitioner*,

v.

VICTOR HARRIS, *Respondent*.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

AMICUS CURIAE BRIEF OF THE NATIONAL POLICE ACCOUNTABILITY PROJECT IN SUPPORT OF RESPONDENT

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IDENTITY AND INTEREST OF AMICUS CURIAE

The National Police Accountability Project (NPAP) was founded in 1999 by members of the National Lawyers Guild (NLG), the first racially integrated national bar association.[1] NPAP was founded with the intent of helping to end police abuse of authority and to provide support for grassroots and victims' organizations combating police misconduct. NPAP has over 300 members across the country. The project provides training and support for attorneys and legal workers; public education and information on issues relating to police misconduct; information and resources for non-profit and community groups who work with victims of police abuse; support for legislative reform efforts aimed at raising the level of police accountability; and a forum for legal professionals and community organizations to come together and creatively work to end police misconduct.

One of the important missions of NPAP is to promote the accountability of police officers and their employers for violations of the Constitution or laws of the United States. Police pursuits endanger the lives of the officers involved, as well as the lives of the suspects being pursued, and the public at large. NPAP has a strong interest in assuring that law enforcement agencies authorize high-speed pursuits only when necessary and under constraints that weigh heavily the dangers of such pursuits to all involved against the law enforcement interest that is furthered. The tactics employed by the petitioner in the case before the Court present serious issues of police

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[1] Pursuant to Rule 37.6, *Amicus* states that no counsel for a party authored this brief in whole or in part and that no person other than *Amicus*, their members, and their counsel made a monetary contribution to its preparation or submission. The parties' letters consenting to the filing of this brief have been filed with the Clerk's office.

accountability and raise questions about police tactics and practices that are of great importance to NPAP members. *Amicus Curiae* submits this brief to assist the Court in understanding that the conduct of Officer Scott was inconsistent with, and in violation of, the majority of pursuit policies of law enforcement agencies throughout the country. A determination by this Court that Officer Scott's conduct, when viewed at the summary judgment stage in the light most favorable to the respondent, was unreasonable and unconstitutional, will not interfere with, nor be contrary to, the stated policies of most federal, state, and local government law enforcement agencies. Indeed, responsible police officials recognize the dangers inherent in high-speed pursuits and many, like Chief James V. Murray of the Peachtree City Police Department, have called for the adoption of restrictive pursuit policies to put an end to "this high-speed police chase carnage. . . ." (R. 56, Ex. 7).

STATEMENT OF THE CASE

Viewed in the light most favorable to the respondent, a jury could find that petitioner used "deadly force" when he made contact with respondent's vehicle to terminate a high-speed pursuit; that respondent was a non-violent misdemeanant whose underlying offense was speeding (respondent's vehicle was clocked at 73 mph in a 55 mph zone); that there was no probable cause to believe "that respondent had committed a crime involving the infliction or threatened infliction of serious physical harm[;]" and that respondent, "prior to the chase, pose[d] [no] imminent threat of serious physical harm to [petitioner] or others[;]" that there were other means of tracking respondent down (pursuing officers had a description of his vehicle and the license plate number); and that absolutely no warning was given to respondent

that petitioner intended to use deadly force to terminate the pursuit. *Harris v. Coweta County*, 433 F.3d 807, 810, 814, 815 & n.8 (11th Cir. 2005).

A jury could conclude that respondent, while traveling at high rates of speed (between 70 and 90 mph) and violating various traffic laws (respondent passed vehicles on double yellow control lines and ran two red lights), remained in control of his vehicle at all times prior to being rammed by the petitioner's police cruiser, slowed for turns and intersections, and typically used his directional signals. *Id.* at 810. In addition, a jury could find respondent never used his vehicle aggressively against petitioner, pedestrians or other motorists during the course of the pursuit. In fact, the evidence would support a finding that respondent attempted to *avoid* a collision with petitioner's police cruiser in the drug store parking lot. *Id.*

SUMMARY OF ARGUMENT

In *Tennessee v. Garner*, 471 U.S. 1 (1985), this Court held that

> [t]he use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so.

Id. at 11. In reaching this conclusion, the Court took into consideration the fact "that a majority of police departments in this country [had] forbidden the use of

deadly force against nonviolent suspects[,]" observing that "[i]f those charged with the enforcement of the criminal law have abjured the use of deadly force in arresting nondangerous felons, there is a substantial basis for doubting that the use of such force is an essential attribute of the arrest power in all felony cases." *Id.*

Amicus Curiae argues that Scott's conduct in using deadly force to terminate the pursuit of a traffic violator is conduct that is prohibited by the majority of police departments in this country. While the policies surveyed by *Amicus* vary as to when and under what circumstances they authorize the initiation of a high-speed pursuit, *see infra* pp. 5-11, and to the extent and pursuant to what guidelines they authorize the execution of a "PIT" maneuver, *see infra* pp. 11-13 and Appendix A, Survey of Policies: Authorization of PIT Maneuvers, an overwhelming majority of the policies equate "ramming" with the use of deadly force, and prohibit "ramming," "bumping," or contact of any sort to terminate a pursuit at high speeds unless deadly force would be justified. *See infra* pp. 13-21; Appendix B, Survey of Policies: Use of Ramming, Bumping, or Other Vehicular Contact to Terminate Pursuit; and Appendix C, Graphic Chart: Policies Reviewed on Bumping or Ramming.

Amicus is not arguing that law enforcement agencies should never engage in high-speed pursuits or that well-trained officers, given appropriate conditions, should never use a PIT maneuver. Nor is *Amicus* equating conduct that violates police policies with conduct that violates the Constitution. However, to the extent that a determination of excessive force under the Fourth Amendment turns on the objective reasonableness of an officer's conduct, a review of a significant number of pursuit policies of law enforcement agencies should assist the Court in assessing

what practices those in the profession deem reasonable. *Amicus* submits that the Court would not be unduly interfering with sound law enforcement policies throughout the country, but rather would be rendering an opinion consistent with those policies by affirming the Eleventh Circuit's determination that Officer Scott's conduct, assuming the jury found in favor of respondent on the facts alleged and supported by the summary judgment record, constituted an unreasonable seizure of respondent and was conduct a reasonable officer would have understood to be unlawful given the totality of the circumstances confronting him at the time.

ARGUMENT

I. THE MAJORITY OF POLICIES SURVEYED ARE RESTRICTIVE WITH RESPECT TO WHEN PURSUITS MAY BE INITIATED[2]

Review of the local, state, federal, and model pursuit policies posted on www.pursuitwatch.com reveals that pursuit policies nationally reflect concern for the safety of both the officer and the public when an officer initiates a high-speed pursuit of a fleeing suspect. The prevailing theme in each policy is the duty of the officer to make

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[2] *Amicus* reviewed a number of local, state, federal and model pursuit policies from around the country. The sections of the policies reviewed respecting the guidelines for initiating a pursuit are much longer than sections that address PIT maneuvers and "ramming." For this reason, compiling and formatting an appendix containing the relevant language of all the policies reviewed for Part I of this Argument would be burdensome, unwieldy and financially prohibitive. The full text of all policies referenced in the brief are on file in the office of Professor Karen Blum, Counsel of Record for Amicus. In addition, all of the policies referenced in Part I of the Argument may be accessed at http://pursuitwatch.org/pursuit_policies/pursuit_policies_database_project.htm (last visited Jan. 11, 2007).

decisions that best protect the citizenry he or she serves. To that end, each policy mandates that an officer may initiate a high-speed pursuit only after the officer concludes that the risk to the public by not apprehending the suspect outweighs the dangers such a pursuit presents.

The policies surveyed fall within two categories: (1) those policies that allow an officer to initiate a high speed pursuit only when the suspect commits a certain offense; and (2) those policies that allow an officer to initiate a pursuit at his or her discretion without regard for the nature of the underlying offense, typically requiring the police officer to balance the dangers in not apprehending the suspect with the dangers inherent in pursuing the suspect at high speeds.

Policies that permit an officer to initiate a high-speed pursuit when the suspect commits a certain offense vary in the degree of restrictions they place on the officer's decision to pursue. A minority of the policies reviewed allow an officer to initiate a pursuit when the underlying offense is either a non-traffic misdemeanor or a traffic violation.[3] The policy adopted by Cincinnati, Ohio illustrates the position taken by the agencies in this group:

> I. A motor vehicle pursuit is permitted in the following instances:
>
> a. On-sight pursuit of a known or suspected felon.
>
> b. On-sight pursuit of traffic or misdemeanor violations, only if witnessed by the officer or if a warrant is on file.

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[3] *See, e.g.*, Isanti County, MN Pursuit Policy; Hamilton County, OH Pursuit Policy.

Similarly, the policy adopted by the Marion County Sheriff, Indiana, directs that "pursuit driving shall . . . be permitted" upon "sight pursuit of a traffic or misdemeanor violator when the violation has been witnessed by the pursuing member."

In contrast, the majority of the policies surveyed are more restrictive in that they allow an officer to initiate a high-speed pursuit only when the suspect committed a felony or serious crime or where the suspect, if left at large, poses an immediate threat to the public.[4] The Georgia Model Policy exemplifies policies in this category, and it states that

> [p]ursuit is justified only when the officer has reasonable grounds to believe the violator presents a clear and immediate threat to the public; has committed or is attempting to commit a serious felony; or when the need to apprehend the violator outweighs the level of danger created by the pursuit.

Likewise, the St. Louis County Police policy permits an officer to initiate a pursuit only if

> 1. the suspect committed or attempted to commit a felony; and
> 2. the crime involved the **use or threatened used of deadly force** (emphasis in original); and

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[4] *See, e.g.*, Orange County, FL Pursuit Policy; Minneapolis, MN Pursuit Policy; New Jersey Police Vehicular Pursuit Policy; Fairfield, OH Pursuit Policy; Portland, OR Pursuit Policy; Virginia Model Policy (option A: Restrictive); Department of the Treasury Pursuit Policy.

> 3. there is a substantial risk that the fleeing violator will cause death or serious physical injury if apprehension is delayed.

The Florida Highway Patrol policy parallels the Georgia Model Policy and St. Louis County policy because it permits an officer to initiate a pursuit when he or she believes the suspect has "committed or attempted to commit a crime of violence."

Other agency policies permit an officer to initiate a pursuit only if the suspect is believed to have committed a specific felony. For instance, Orlando, Florida's Pursuit Policy directs that an officer may only pursue a suspect who he or she believes committed, or attempted to commit, murder, manslaughter, armed robbery, armed sexual battery, arson to a structure reasonably believed to be occupied, use of explosive devices to a structure reasonably believed to be occupied, kidnapping, armed carjacking, burglary armed with a firearm, aggravated assault on a law enforcement officer with a deadly weapon (not including a motor vehicle), or aggravated battery on a law enforcement officer resulting in serious injury.[5]

Some policies within this group categorically prohibit an officer from initiating pursuit when the suspect committed only a misdemeanor or traffic infraction.[6] For example, the policy adopted by the Daytona Beach Police Department allows an officer to initiate pursuit when the officer has a reasonable belief that the suspect committed a violent or forcible felony crime, but it cautions that

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[5] *See also* Spartanburg, SC Pursuit Policy.

[6] *See, e.g.*, Chandler, AZ Pursuit Policy; Oakland, CA Pursuit Policy; Orlando, FL Pursuit Policy; Hillsborough County, FL Pursuit Policy; Monroe County, FL Pursuit Policy; El Paso, TX Sheriff's Office Pursuit Policy; Virginia Model Policy, (option B: Less Restrictive).

"[o]fficers shall not pursue for any misdemeanor offenses" and "[o]fficers shall not pursue or assist in the pursuit of vehicles for traffic offenses, to include felony traffic violations." Likewise, the Peachtree City, Georgia policy declares that "[o]fficers will not initiate a pursuit when the only crime involved is a minor misdemeanor or a traffic violation."

While the policies discussed above require an officer to identify a certain underlying offense before he or she pursues a suspect, other policies leave the decision to initiate a pursuit to the officer's discretion. Such policies allow an officer to initiate a pursuit when, after an analysis of all the circumstances pertinent to the pursuit, the officer concludes that the risks posed by a high-speed pursuit are outweighed by the danger of not apprehending the suspect.[7] The policy adopted by the Citrus County, Florida Sheriff's Office is one that leaves the decision to pursue to the discretion of the officer. That policy states that

> [t]he authority to initiate emergency operation of an agency vehicle will be at the discretion of the deputy, based upon available information and the deputy's training and experience.

A number of the surveyed polices restrict the officer's discretion by providing explicit factors an officer should consider before he or she initiates a pursuit.[8] Only

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[7] *See, e.g.*, Hawaii Pursuit Policy; Iowa City, IA Pursuit Policy; Kansas City, MO Pursuit Policy; Citrus County, FL Pursuit Policy; Minnesota Police Pursuits Model Policy; Utah Model Pursuit Policy.

[8] For example, the St. Lucie County Sheriff's Office lists a number of factors an officer should analyze when determining whether to initiate a pursuit, including, but not limited to: whether the initiating deputy has probable cause to believe a crime has been or is being committed;

after consideration of these factors, and upon conclusion that the danger to the community should the suspect remain at large outweighs the risks inherent in a high speed pursuit may an officer, in his discretion, initiate a pursuit.

It is also worth noting that some of the policies surveyed limit an officer's discretion to initiate pursuit when the officer identifies the suspect, determines the suspect poses no threat to the public if not apprehended, and determines the suspect may be apprehended at a later time.[9] For example, the Portland, Oregon policy permits an officer to pursue a suspect if the risk created by the suspect's escape outweighs the dangers of pursuit, with the exception that

> [p]ersons whose identities are known, who can be apprehended at a future time, and whose driving or conduct does not create an imminent threat of serious physical injury or death will not be the subject of a pursuit...

In such a situation, the risks to the public are presumed to outweigh the danger of letting the suspect escape.

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seriousness of the originating offense and its relation to community safety; the probability of apprehension; geographic location, population density (vehicle and pedestrian), and land use; time of day; traffic and road conditions; weather conditions; familiarity of deputies and supervisors with the area of the pursuit; speeds involved; and quality of radio communications between pursuing unit(s), the dispatcher, and supervisor.

[9] *See, e.g.*, Lubbock, TX Pursuit Policy.

II. PURSUIT POLICIES THAT ALLOW PIT MANEUVERS COMMONLY RESTRICT THE SPEED AT WHICH THEY MAY BE PERFOMED; EQUATE A PIT MANEUVER PERFORMED AT HIGH SPEEDS WITH DEADLY FORCE; AND REQUIRE OFFICERS WHO PERFORM A PIT MANEUVER TO BE TRAINED IN THE TECHNIQUE

Thirty seven of the pursuit policies surveyed do not absolutely prohibit vehicle contact. Of these policies, only eleven discuss the PIT maneuver. While referenced by several different names (*e.g.*, Pursuit Intervention Technique, Pursuit Immobilization Technique, or Precision Immobilization Technique), the PIT is generally described as an "intentional contact between a police vehicle and a pursued vehicle in such a manner as to cause a 180-degree spin and subsequent stop of the pursued vehicle."[10] Due to the inherent dangers associated with vehicular contact, policies impose several restrictions on the use of the PIT maneuver. Most commonly, only officers who receive PIT maneuver training may perform the technique.[11] Just one

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[10] Portland, Oregon Vehicle Pursuits (7a); *see also* Oakland, California Pursuit Policy (Pursuit Immobilization Technique (P.I.T.) immobilizes a pursued vehicle by causing it to spin and stop by momentarily pushing its rear quarter panel with the corresponding front quarter panel of a police vehicle.) (1a).

[11] *See, e.g.*, Oakland, California Pursuit Policy ("Only members who have received Departmental training in its use may employ the pursuit immobilization technique.") (1a); Marion County, Indiana Pursuit Policy ("Officers not trained by a certified PIT instructor shall not perform the PIT maneuver.") (2a); Plymouth, Minnesota Policy and Operating Procedures (PIT "will only be attempted by officers who have successfully completed department-approved training on its use.") (4a); Minnesota State Patrol Policy (PIT only allowed when "the trooper effecting the vehicular contact has been trained in the pursuit intervention technique which will be employed.") (3a); Las Vegas, Nevada Vehicular Pursuit Policy ("Only commissioned personnel who

policy, the one promulgated by Melbourne, Florida, does not require PIT maneuver training expressly. The policy advises, however, that "[u]nits should not utilize the PIT (Pursuit Intervention Technique) unless deadly force is authorized." (2a).

Unlike the Melbourne, Florida policy, most pursuit policies do not universally qualify the PIT as deadly force, but rather, they place speed restrictions upon its use as non-deadly force. The Portland, Oregon policy illustrates this distinction. It states that the "PIT is not deadly force when employed on an eluding vehicle that is traveling at or below 35 mph. PIT is deadly force when employed on an eluding vehicle that is traveling above 35 mph."[12] While these policies make clear that the use of the PIT at high speeds is tantamount to applying deadly force, other policies completely forbid the use of the PIT at such speeds.[13] Although 35 or 40 mph reflects the preferred speed

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maintain current certification may use this stopping technique.") (5a); Portland, Oregon Vehicle Pursuits ("Only members trained in the [PIT] technique will employ it.") (7a); Waco, Texas General Order (PIT may only be used if the officer has been trained in the use of the technique.) (8a); Whatcom County, Washington, Pursuit Policy ("Deputies must have received training in the utilization of the PIT maneuver before using the technique.") (8a); Madison, Wisconsin, Policy 6-300 (PIT may only be used if "the officer performing the PIT has been trained in the technique.") (9a).

[12] Portland, Oregon Vehicle Pursuits (7a); *see also* Las Vegas, Nevada Vehicular Pursuit Policy ("P.I.T. may be used as non-deadly force to apprehend violators at speeds 40 MPH and below after the violator has clearly demonstrated the intention to avoid arrest.") (5a); Madison, Wisconsin, Policy 6-300 ("Use of the pursuit intervention technique at speeds greater than 35 miles per hour is considered deadly force and shall only be used under authorized deadly force circumstances.") (9a).

[13] *See, e.g.*, Oakland, California, Pursuit Policy ("Under no circumstances shall a pursuit immobilization technique be employed at speeds in excess of 35 m.p.h.") (1a); Reno, Nevada Vehicle Pursuit Policy (PIT should not be attempted when the pursued vehicle is traveling in excess of 35 mph.) (6a).

restriction placed on the use of the PIT by most policies, the Marion County, Indiana policy recommends that the speed not exceed 45 to 50 mph.[14]

As even this limited survey suggests, contemplating any kind of PIT maneuver while traveling at speeds exceeding 50 mph would violate every pursuit policy reviewed. No policy would authorize an officer to use the PIT under the circumstances the petitioner confronted when he sought permission to perform the PIT maneuver on the evening of March 29, 2001. Furthermore, Officer Scott had received no training on the PIT technique. *Harris*, 433 F.3d at 810, 811. His use of the PIT maneuver under these circumstances would violate the requirements of virtually every jurisdiction surveyed.

III. THE MAJORITY OF POLICIES REVIEWED EQUATE RAMMING WITH THE USE OF DEADLY FORCE AND EITHER EXPRESSLY PROHIBIT IT OR LIMIT ITS USE TO SITUATIONS WHERE DEADLY FORCE WOULD BE SANCTIONED

A review of fifty-one local, state, and federal vehicular pursuit policies reveals that most law enforcement agencies disfavor using physical contact by a police vehicle to terminate a pursuit. Policies governing the use of bumping or ramming techniques generally fall within two categories: (1) those that expressly prohibit deliberate vehicular contact to terminate a pursuit; (2) and those that limit deliberate contact to situations in which deadly force is both appropriate and authorized by the department's deadly force policy.

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[14] Marion County, Indiana ("It is recommended the PIT only be used at a speed not exceeding 45 to 50 miles per hour.") (2a).

Most of the municipal police department policies reviewed expressly prohibit officers from bumping or ramming a fleeing vehicle to force the pursued driver to slow or stop his or her vehicle. The St. Louis County, Missouri Police pursuit policy typifies policies that strictly prohibit bumping or ramming as a means of terminating vehicular pursuits. The policy asserts that "[d]eliberate contact by a police vehicle with the pursued vehicle from the front, rear or side is not authorized . . . at any time during a pursuit as a method to stop the vehicle." (12b). Likewise, the Kansas City, Missouri Police Department's Pursuits and Emergency Police Vehicle Operations policy states that "[t]he use of push bars is prohibited," and that "[p]olice vehicles will not be used to ram pursued vehicles." (11b). The pursuit policy of the City of Cincinnati, Ohio is equally emphatic in prohibiting the use of a "police vehicle as a battering ram to force the vehicle being pursued to stop." (14b). In addition to listing bumping or ramming as a generally prohibited practice under their respective pursuit policies, the Monroe County, Florida Police Department (5b) and Potter County, Texas Sheriff's Department (17b) were careful to stress that intentional vehicular contact is prohibited when utilized in the specific manner employed by Officer Scott: to "forc[e] the pursued vehicle into parked cars, ditches, or any other obstacle . . . to force the vehicle to a stop."[15]

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[15] *See also* The Chandler, Arizona Police Department Pursuit Policy ("Officers may not stop or attempt to stop a moving suspect vehicle during a pursuit by striking the suspect's vehicle with the police vehicle. Possible activation of air bags and/or loss of vehicle control prohibit this action.") (2b); Oakland, California Police Department Pursuit Policy ("Channelization, boxing in, and [PIT] are the only methods approved for stopping suspects' vehicles. Other methods, e.g., ramming, shall not be used.") (2b); Hillsborough County, Florida Sheriff's Department Pursuit Policy ("Deputies shall not intentionally ram a suspect's vehicle.") (4b); Volusia County, Florida Sheriff's Office Motor Vehicle Apprehension Policy ("While pursuing, deputies

Among municipal policies that do not bar deliberate offensive contact outright, the majority of policies state implicitly or explicitly that ramming constitutes deadly force and is subject to all applicable restrictions governing the use of deadly force to apprehend fleeing suspects. The policy promulgated by the College Park, Georgia Police Department exemplifies policies that allow a pursuing officer to ram a fleeing vehicle intentionally within the specific factual context of deadly force situations. (6b). According to the policy,

> [t]he department allows vehicle contact actions or other forcible stop techniques to terminate a pursuit only when all of the following conditions have been satisfied: there is sufficient legal justification for the use of deadly force; a supervisor has authorized such action, if feasible; and [the officer] has been properly trained in the application of the selected technique.

Similarly, the Fredericksburg, Virginia Department of Police's pursuit policy indicates that "[f]orcible measures to stop a fleeing driver are prohibited except where deadly force is appropriate," and that police department vehicles "shall not be used to perform a forcible stop except . . . when a use of deadly force is necessary and authorized."

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shall not ram . . . a fleeing vehicle.") (6b); Rochester, New Hampshire Police Department Pursuit Policy ("The forcible stopping of any vehicle through vehicular contact is prohibited.") (13b); Hamilton County, Ohio Sheriff's Department Emergency Operations of Sheriff's Office Vehicles Policy ("Officers will make no attempt to stop pursued vehicles by. . . ramming. . . during the pursuit.") (14b); The Colony, Texas Police Department Pursuit Policy ("Ramming is strictly prohibited.") (17b).

(19b). Police departments in major metropolitan areas across the country have also placed intentional vehicular contact within the context of deadly force in their respective pursuit policies, including Orlando, Florida Police Department ("Units may not ram a fleeing vehicle unless deadly force is authorized.") (5b), Minneapolis, Minnesota Police Department ("Vehicle contact . . . may only be used when state law permits use of deadly force.") (11b), Las Vegas, Nevada Police Department ("The use of a vehicle to stop or apprehend a suspect, such as ramming . . . may be considered deadly force.") (12b), and Portland, Oregon Police Department ("Using a police vehicle to purposely cause contact with another moving vehicle in order to bring that vehicle to a stop . . . is . . . deadly physical force.") (15b). In addition to characterizing ramming as deadly force, several of the pursuit policies reviewed, including those of the Citrus County, Florida Sheriff's Office (3b), the Iowa City, Iowa Police Department (8b), and the City of Mankato, Minnesota Department of Public Safety (10b) emphasized that "ramming will only be considered to stop a fleeing vehicle as a last resort, when all other reasonable means to stop the violator have failed."[16]

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[16] *See also* The Daytona Beach, Florida Police Department Vehicle Pursuit Policy ("While pursuing, officers shall not ram. . . unless specifically authorized by a command level officer.") (4b); St. Lucie County, Florida Sheriff's Office Vehicle Pursuit Policy ("Deputy(s) are discouraged from ramming . . . fleeing suspect(s). These methods should be considered deadly force and will be fully explained by the pursuing deputy at the termination of the pursuit.") (6b); Plymouth, Minnesota Police Department Pursuit Policy ("Vehicle contact may be used only when in accordance with the department procedure on use of force and when state law permits the use of deadly force.") (11b); Reno, Nevada Police Department Vehicle Pursuit Policy ("Surrounding a suspect vehicle, as well as forcing vehicles off the road, are . . . extremely hazardous tactics and should be used only as a last resort when necessary to protect an officer or others from an immediate threat of death or serious physical injury, or to prevent a crime where the

suspect's actions place persons in immediate jeopardy of death or serious physical injury") (12b); Fairfield, Ohio Police Department Pursuit Policy ("Ramming may be utilized when: deadly force is authorized; all other efforts to effect apprehension have failed; and the shift supervisor has authorized the use of . . . ramming.") (14b); Beaverton, Oregon Police Department Vehicular Pursuit Policy ("Unless specifically authorized by a supervisor, pursuing officers will not . . . ram [or] force off the road . . . the suspect vehicle. Such action may be approved only when the use of deadly force is authorized.") (15b); Spartanburg, South Carolina Public Safety Department Pursuit Policy ("In the course of the pursuit, deliberate contact between vehicles or forcing the pursued vehicle into parked cars, ditches, or any other obstacle . . . shall be prohibited unless such actions are specifically authorized by the supervisor. Such actions may be approved only when the use of deadly force would be authorized.") (15b); Rapid City, South Dakota Police Department Vehicle Pursuits Policy ("Deliberate physical contact between vehicles will not be justified, except . . . [w]hen officers are in pursuit of known and extremely dangerous felons who, if allowed to escape, would create a substantial risk of another person being killed or seriously injured, or [e]xcept under orders of a supervisor.") (16b); El Paso County, Texas Sheriff's Office Vehicle Pursuit Policy ("Deputies will not use. . . ramming. . . methods unless deadly force is deemed necessary.") (16b); Lubbock, Texas Police Department Emergency Driving Policy ("The following measures shall be taken ONLY when established departmental policy would allow the use of deadly force: Intentional striking or ramming of the suspect's vehicle by any portion of the police vehicle.") (17b); Waco, Texas Police Department Emergency Vehicle Operations Policy ("A suspect posing a deadly force threat may be immobilized using a police vehicle.") (17b); Des Moines, Washington Police Department Pursuit Policy ("An automobile used to force a vehicle off the road. . . is considered deadly force.") (19b); City of Racine, Wisconsin Police Department Pursuit Policy ("In the course of a pursuit, deliberate offensive contact between vehicles or forcing the pursued vehicle off the roadway, into parked cars, ditches or any other obstacle . . . ramming . . . is prohibited, unless the use of deadly force is authorized.") (20b).

It is worthwhile noting that the policy promulgated by Whatcom County, Washington Sheriff's Office, in addition to classifying intentional intervention (*i.e.*, ramming) as a use of deadly force, discusses the myriad dangers inherent in the use of such techniques, such as "the possibility of airbag deployment and potential

State and federal government policies that address methods for terminating vehicular pursuits are consistent in disapproving of bumping or ramming by pursuing police vehicles. Like several of the municipal pursuit policies reviewed, Virginia's model pursuit policy expressly prohibits the use of bumping or ramming in vehicular pursuits: "[o]fficers shall not intentionally ram, bump, or collide with a fleeing vehicle nor shall officers pull alongside such vehicles in an attempt to force them off the road or into an obstacle." (19b). Similarly, the Florida Highway Patrol Use of Vehicles in Patrol/Pursuits policy states unequivocally that "[i]n the course of a pursuit, deliberate contact between vehicles or forcing the pursued vehicle into parked cars, ditches or any other obstacle . . . [and] ramming [are] prohibited."[17] (4b).

The majority of pursuit policies promulgated by the States do not, however, prohibit intentional vehicular contact. Instead, they limit such contact to situations that warrant deadly force. For example, the Utah Vehicle

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for injury to suspects and deputies." (20b) The pursuit policy of the City of Streetsboro, Ohio Police Department likewise expresses grave concern over "the extreme danger to the officers, occupants of other vehicles, and other users of the high way" when ramming is employed to terminate a pursuit and bring the pursued vehicle to a stop. (14b).

[17] *See also* The Hawaii Police Department Motor Vehicle Pursuit Policy ("Ramming . . . is prohibited in pursuit situations.") (7b); State of Connecticut Uniform Pursuit Policy ("All intervention techniques short of deadly force shall be used when it is possible to do so in safety police officers utilizing them have received appropriate training in their use.") (3b). The International Association of Chiefs of Police (IACP) has also weighed in on the use of intentional vehicular contact as a means of terminating a pursuit. The IACP Sample Policy, while not directly equating bumping or ramming with a use of deadly force, limits "tactical intervention techniques" to low speeds and states clearly that such techniques should be used only "when it is possible to do so in safety and when the officers utilizing them have received appropriate training in their use." (1b).

Pursuit Model Policy provides that "[t]he use of forcible stops such as . . . ramming [is] a last resort measure and should be used only when the use of deadly force is justified." (18b). The Utah Model Policy stresses that ramming is appropriate only "[a]fter all reasonable alternative means of apprehension have been considered and rejected as impractical." (18b). The Minnesota State Patrol pursuit policy makes clear that "[t]he deliberate striking (ramming) of a pursued vehicle with a state unit at speeds greater than allowed for use of a Pursuit Intervention Technique (PIT) shall be considered deadly force . . . ." (9b). The policy states further that "[t]roopers may employ the Pursuit Intervention Technique (PIT) against a pursued vehicle . . . only at speeds of 40 mph or less on straight roadways or 25 mph or less in cornering situations." (9b). The Indiana State Police Pursuit/ Emergency Driving and Roadblocks Policy even goes so far as to state that "[u]sing a police vehicle as a weapon shall be viewed with the same regard as using a deadly weapon."[18] (8b). Georgia's model pursuit policy provides that "[a]n officer will not bump or ram a pursued vehicle, unless otherwise ordered to do so by the field supervisor." (7b).

The Department of the Treasury's pursuit policy is consistent with the majority of policies promulgated by the States and provides that "[m]aking deliberate contact between vehicles, forcing the pursued vehicle off the roadway, ramming, or using other offensive maneuvers

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[18] *See also* The Minnesota Police Pursuits Model Policy ("No officer will intentionally make vehicle-to-vehicle contact unless in conformance with agency policy on use of force.") (9b); New Jersey Police Vehicular Pursuit Policy ("Officers involved in a pursuit shall not. . . engage in any vehicle contact action except as a last resort to prevent imminent death or serious injury to the officer or another person where deadly force would otherwise be justified.") (13b).

while the pursued vehicle is in motion is strongly discouraged. Such offensive tactics are considered as deadly force . . . ." (1b)

Unlike the vast majority of municipal, state, and federal vehicular pursuit policies reviewed by *Amicus*, the Coweta County policy in effect on March 29, 2001, was permissive. Coweta County's pursuit policy stated simply that "[d]eliberate physical contact between vehicles at any time may be justified to terminate the pursuit upon the approval of the supervisor." Rather than prohibiting or limiting the use of such techniques to deadly force situations, the Coweta County policy granted officers nearly unfettered discretion to bump or ram fleeing vehicles to terminate a pursuit, subject only to minimal supervisory approval. Following the events that precipitated this suit, Coweta County officials revised their pursuit policy. The County's current policy, which now aligns closely with the majority of policies reviewed by *Amicus*, provides that "[i]n the course of any pursuit, deliberate contact between vehicles, ramming or forcing pursued vehicles into parked cars, other vehicles or fixed objects is prohibited unless such actions are authorized by the on duty supervisor." The policy mandates that "[n]o officer shall fire at or intentionally ram the fleeing vehicle unless deadly force is justified against all occupants of the vehicle." In short, Coweta County, like the majority of police departments surveyed, now restricts the use of ramming or bumping to situations where deadly force would be authorized under the factors set forth in *Garner* or under even more restrictive conditions that may be set out in the department's deadly force policy.[19]

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[19] As the Solicitor General's amicus brief notes, the DOJ's deadly force policy is even more restrictive than *Garner*. Brief for the United States as Amicus Curiae Supporting Petitioner, Scott v. Harris, 127 S. Ct. 468 (Dec. 15, 2006) (No. 05-1631), 2006 WL 3707883, *15 n.4.

CONCLUSION

Over twenty years ago, the Police Foundation, joined by nine national and international associations of police, the chiefs of police associations of two states, and thirty-one law enforcement chief executives, submitted an *amicus* brief to this Court on behalf of the respondent in *Tennessee v. Garner*. Brief for Police Foundation et al. as Amici Curiae in Support of the Respondent-Appellee, Tennessee v. Garner, 471 U.S. 1 (1985) (Nos. 83-1035, 83-1070), 1984 WL 566025. In that brief, *Amici* noted that "[t]he primary police responsibility of protecting life and enforcing law is best served by reducing use of deadly force to an absolute minimum by providing meaningful guidelines for officer discretion." 1984 WL 566025, at *23. The brief urged the Court to set constitutional limits on the use of deadly force in the apprehension of non-dangerous, fleeing felons. *Amici* in that case assured the Court that setting such limits and restrictions would be "consistent with most police department policies and practices and [would] not unduly intrude on criminal law enforcement." *Id.* at 27-40. In the conclusion of their brief, *Amici* referenced language, *see id.* at *47, *48, from the dissenting opinion of then Chief Justice Burger in *Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 419 (1971) (Burger, C.J., dissenting). The language is strikingly relevant to the case now before the Court:

> From time to time judges have occasion to pass on regulations governing police procedures. I wonder what would be the judicial response to a police order authorizing "shoot to kill" with respect to every fugitive. It is easy to predict our collective wrath and outrage. We, in

> common with all rational minds, would say hat the police response must relate to the gravity and need; that a "shoot" order might conceivably be tolerable to prevent the escape of a convicted killer but surely not for a car thief, a pickpocket or a shoplifter.

Id.

Amicus Curiae acknowledges "the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor*, 490 U.S. 386, 397 (1989). However, on March 29, 2001, Officer Scott was not faced with such uncertainty about the amount of force that was appropriate in seizing a fleeing traffic violator. Along with the guidelines on the use of deadly force established by the Court in *Garner* and *Graham*, the majority of police pursuit policies in the country would have prohibited the ramming of respondent's vehicle as a means of terminating a pursuit, where the suspect's only offense prior to the pursuit was a speeding violation and the suspect presented no imminent danger to the officer or the public at the time the deadly force was used. We urge the Court to affirm the decision of the Court of Appeals.

Respectfully submitted,

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Dated: January 17, 2007

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[20] Counsel acknowledges the assistance of the following Suffolk University Law School students in the research and writing of this brief: Zachary Hillman, Michael Lane, and Gregory Tumolo.

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APPENDIX A: PIT MANEUVERS

CALIFORNIA

Oakland, California Police Department
Effective April 18, 2000
EMERGENCY DRIVING, PURSUIT (CODE 3), PURSUIT INTERVENTION, & SAFETY BELT REGULATIONS
III. DEFINITIONS
3. Pursuit Immobilization Technique (P.I.T.) immobilizes a pursued vehicle by causing it to spin and stop by momentarily pushing its rear quarter panel with the corresponding front quarter panel of a police vehicle. See Attachment C.
V. GENERAL PROVISIONS GOVERNING IMMEDIATE PURSUIT DRIVING AND THE USE OF PURSUIT INTERVENTION MANEUVERS
D. Pursuit Intervention Maneuvers
3. Pursuit Immobilization Technique (P.I.T.) (See Attachment C)
a. Under no circumstances shall a pursuit immobilization technique be employed at speeds in excess of 35 m.p.h.

b. Only member who have received Departmental training in its use may employ the pursuit immobilization technique.

c. Occupants of police vehicles employing the technique shall wear seat belts.

d. When authorizing the use of the pursuit immobilization technique, supervisors and command officers shall authorize three (3) units to participate in the pursuit. One unit shall be designated to use the technique. The other two units shall be assigned to conduct a high-risk car stop on the suspect vehicle following its immobilization.

FLORIDA

Melbourne, Florida Police Department
MELBOURNE POLICE DEPARTMENT GENERAL ORDERS
POLICY AND PROCEDURE DIRECTIVE
TITLE: VEHICULAR PURSUITS MPD POLICY #: H.702
Effective July 1, 2000

14. Units should not utilize the PIT (Pursuit Intervention Technique) unless deadly force is authorized (F.S. 776.06).

INDIANA

Marion County, Indiana
.80 P.I.T. Maneuver (PIT)

The Precision Immobilization Technique (PIT) will be used in order to stop a pursuit at the safest, fastest, and most appropriate opportunity before the pursuit places civilians in danger. If officer(s) trained in performing the PIT maneuver determines the vehicle must be stopped to safeguard life and preserve the public safety, the PIT may be used.

Officers not trained by a certified PIT instructor shall not perform the PIT maneuver.
It is recommended the PIT only be used at a speed not exceeding 45 to 50 miles per hour.

MINNESOTA

Minnesota State Patrol
Effective April 1, 2001
III. Definitions
I. Pursuit Intervention Technique (PIT)
Pursuit Intervention Technique, hereafter known as PIT, is a controlled contact between the patrol unit and the pursued vehicle at low speeds which is intended to cause the operator of a pursued vehicle to lose control and the vehicle become disabled.
IV. Pursuit Guidelines
J: Pursuit Tactics

1: The deliberate striking (ramming) of a pursued vehicle with a state unit at speeds greater than allowed for use of a Pursuit Intervention Technique (PIT) shall be considered deadly force and is justified by troopers only when necessary ...

2: Troopers may employ the Pursuit Intervention Technique (PIT) against a pursued vehicle in order to terminate a pursuit and [sic] prevent a pursued vehicle from continued operation under the following circumstances:

A: when all other means of apprehension have been considered and rejected as impractical;

B: only at speeds of 40 MPH or less on straight roadways or 25 MPH or less in cornering situations;

C: when the risk of harm to people of a continued pursuit outweighs the risk of harm to people from an intentional low speed vehicular collision; and

D: the trooper effecting the vehicular contact has been trained in the pursuit intervention technique which will be employed.

Plymouth, Minnesota Police Department
POLICY AND OPERATING PROCEDURE MANUAL
Effective August 28, 1996
Revised January 11, 2005
VEHICLE PURSUIT

X. Pursuit Tactics:

A: Vehicle Contact:

1. Vehicle contact may be used only when in conformance with the Department Procedure on Use of Force and when state law permits the use of deadly force, unless the officer believes contact is necessary because the risk of personal injury, created by the continued pursuit, is greater than the risk of injury from the proposed action. Factors to consider when assessing risks include the number and location of potential victims, the speed of the pursued vehicle, traffic conditions, the suspect's driving conduct, and the length of the pursuit.

3. The Safest and most effective use of vehicle contact is through the use of the Pursuit Intervention Technique (PIT.) PIT should be attempted at reasonable speeds based on evaluation of the circumstances of the pursuit and will only be attempted by officers who have successfully completed department-approved training on its use. Officers must consider the safety of the public, his/her own safety, and the safety of the violator in determining whether the technique will be attempted. The PIT maneuver should not be attempted on a vehicle pulling a trailer, a motorcycle, or a bus unless deadly force is authorized.

4. Factors to consider when using vehicle contact include speed, location, topography, road conditions, obstructions, and the position of other vehicles, passengers, and pedestrians.

NEVADA

Las Vegas, Nevada Police Department
VEHICULAR PURSUIT
USE OF THE PURSUIT IMMOBILIZATION TECHNIQUE (P.I.T.)
Without the willful compliance of the fleeing suspects to voluntarily brining their vehicle to a stop, circumstances develop which may warrant a forcible stop. Primary and secondary units will exhaust all other means of apprehension before attempting forcible stops and will use only the minimal amount of force which is consistent with the accomplishment of the mission. The use of a vehicle to stop or apprehend a suspect, such as ramming or the use of P.I.T. may be considered a use of deadly force.
Officers will be trained on the Pursuit Immobilization Technique and when its use is permissible. Only commissioned personnel who maintain current certification may use this stopping technique. P.I.T. will not be used to stop [sic] a vehicle with deflated tired unless deadly force is authorized.
P.I.T. as Deadly Force:
Circumstances warranting the use of P.I.T. as deadly force are as follows:
1: the officer believes that continued movement of the pursued vehicle would place others in danger of bodily harm or death.
2: Apparent risk of harm, to other than the occupants of the pursued vehicle, is so great as to outweigh the risk of harm in making the forcible stop.
3: All other means of apprehension have been considered and rejected as impractical, e.g., continue to follow, call for air support.
P.I.T. as Non-deadly Force:

P.I.T. may be used as non-deadly force to apprehend violators at speeds 40 MPH and below after the violator has clearly demonstrated the intention to avoid arrest.

Locations and Hazards

Officers will consider the safety of the public and suspects before executing this technique, evaluating the following locations and hazards:

1. Areas with high concentrations of pedestrians
2. Other vehicle traffic
3. Parked vehicles
4. Telephone/utility poles
5. Bridges
6. Areas adjacent to paved roads with a large elevation change
7. High center of gravity vehicles, such as vans, SUVs, and jeeps, likely to roll over (4/05, 9/05)

Reno, Nevada Police Department

Effective: January 3, 2006

VEHICLE PURSUITS

Vehicle Intervention Techniques

Pursuit Intervention Technique (PIT) – The PIT is designed to be executed by a pursuing police vehicle. The PIT is a technique in which the officer's vehicle makes contact with the rear quarter panel of the suspect's vehicle, causing it to rotate and come to a stop. If the technique is properly executed, damage to the officer's vehicle should be minor or negligible. The location chosen to implement a PIT is of paramount importance. The area should be clear of pedestrians and other occupied vehicles, and roads should be in good condition, e.g., free from loose gravel, significant road repair, etc. Unless exigent circumstances exist, the PIT should **not** be attempted when the following exists:

- The pursued vehicle is traveling in excess of 35 mph.

- The size of the pursued vehicle is significantly heavier than the primary unit's police car, e.g., bus, motor home, semi-truck, dual-rear-wheel pickup truck, etc.
- The pursued vehicle is transporting hazardous material.
- Since employing the PIT will cause officers to be in close proximity to the suspect, a PIT should not be used on a suspect who is known to be armed.
- The pursued vehicle is a motorcycle, motor scooter, or three-wheeled cycle.

OREGON

Portland, Oregon
630.05 **VEHICLE PURSUITS**
Pursuit Intervention Strategies (630.05)
c. Pursuit Intervention Technique (PIT): Intentional contact between a police vehicle and a pursued vehicle in such a manner as to cause a 180-degree spin and subsequent stop of the pursued vehicle. Only members trained in the technique will employ it. PIT may be used to end a pursuit when other means have been considered and tried or ruled out. PIT will not be used on two-wheeled vehicles, passenger-occupied buses, vehicles transporting hazardous material or any vehicle that would pose an unusual hazard to innocent parties. PIT is not deadly force when employed on an eluding vehicle that is traveling at or below 35 mph. PIT is deadly force when employed on an eluding vehicle that is traveling above 35 mph.

TEXAS

Waco, Texas
Waco Police Department
General Order
31.03.3 Vehicular Pursuits
L. Use of Force:
3. Vehicular forcible stopping techniques (often referred to as: Ramming, Roadblocks, Moving Roadblocks, PIT Maneuver, etc.) used to end/immobilize a pursuit or potential deadly force threat, may be used if all of the following conditions are met:
a. The officer has been trained in the use of the technique they intend to deploy;
b. The officer is justified in using deadly force against a suspect inside the motor vehicle; and
b. A supervisor must have approved the use of one of the techniques listed above (prior to its use) unless the officer had no time to obtain supervisory approval prior to the use of the technique.

WASHINGTON

Whatcom County, Washington Sheriff's Office
Effective October 1, 2004
Pursuit of Motor Vehicles:
23.5.4 Pursuit Immobilization Technique (PIT)
The PIT is a method to reduce the risks in bringing pursuits to a conclusion. PIT is a forced rotational vehicle stop of a non-compliant suspect in an effort to end the suspect's flight. Deputies must have received training in the utilization of the PIT maneuver before using the technique. Until deputies are trained in PIT, assistance from other agencies with PIT trained officers (WSP) may be requested.

WISCONSIN

Madison, Wisconsin Police Department
Policy 6-300
Pursuit Intervention Technique (PIT)

1. The pursuit intervention technique may be used under circumstances involving a type 1 pursuit if:

a. The suspect's vehicle is traveling less than 35 miles per hour

b. Doing so would not create and unreasonable risk of harm to uninvolved motorists or pedestrians

c. A supervisor has approved of using the technique, unless it is unsafe or impracticable to do so.

d. The officer performing the PIT has been trained in the technique.

APPENDIX B: RAMMING, BUMPING, CONTACT

FEDERAL

Department of the Treasury
Subject: PURSUIT POLICY
DATE: 06/22/94...
6. GUIDELINES. ...
e. Pursuit Tactics.
(1) Offensive Tactics. Making deliberate contact between vehicles, forcing the pursued vehicle off the roadway, ramming, or using other offensive maneuvers while the pursued vehicle is in motion is strongly discouraged. Such offensive tactics are considered as deadly force and are justified only under the following circumstances:
- Use of offensive tactics are authorized by agency regulations/general orders.
- Danger to the public makes it imperative that the suspect be apprehended, justifying the use of deadly force.
- Notification is given to the supervisor if agency policy requires and time permits.
- Pursuing officer should be trained in the offensive tactics selected to terminate the pursuit, and all cautions should be exercised to minimize danger to the public, police officers, and suspect(s).

OTHER

International Association of Chiefs of Police Sample Policy
Effective Date: October 30, 1996
Subject: Vehicular Pursuit
Reevaluation Date: October 30, 1999 ...
IV. PROCEDURES:...
D. Pursuit Tactics:...

4. All intervention tactics short of deadly force such as spike strips, low speed tactical intervention techniques, and low speed channeling (with appropriate advance warning) should be used when it is possible to do so in safety and when the officers utilizing them have received appropriate training in their use.

STATE AND MUNICIPAL

ARIZONA

Chandler Police Department
Effective 07/01/96
600 GENERAL PROVISIONS
The following policies will govern vehicular pursuits:
A. Pursuit Vehicle Responsibilities ...
5. Ramming – Officers may not stop or attempt to stop a moving suspect vehicle during a pursuit by striking the suspect's vehicle with the police vehicle. Possible activation of air bags and/or loss of vehicle control prohibit this action.

CALIFORNIA

Oakland Police
DEPARTMENTAL GENERAL ORDER
Rev. 18 Apr 00
V. GENERAL PROVISIONS GOVERNING IMMEDIATE PURSUIT DRIVING AND THE USE OF PURSUIT INTERVENTION MANEUVERS ...
E. Channelization, Boxing In, and the Pursuit Immobilization Technique are the only methods approved for stopping suspects' vehicles. Other methods (e.g., "ramming," "roadblocks," et cetera) shall not be used.

CONNECTICUT

State of Connecticut Uniform Pursuit Policy
8/10/03
Section14-283a-4. PROCEDURES ...
(4) All intervention techniques short of deadly force shall be used when it is possible to do so in safety police officers utilizing them have received appropriate training in their use. Such techniques shall include boxing in the vehicle or using controlled termination devices.

FLORIDA

Citrus County Sheriff's Office
EFF. DATE 5-15-01
X. INTERVENTION...
C. A supervisor may authorize the use of "ramming" as a last resort when all other reasonable means to stop the violator have failed. Also, the member must reasonably believe the violator has committed, has attempted to commit, or is attempting to commit a felony that involved the use, or threatened use, of deadly force and there is substantial risk that the violator will cause death or serious physical injuries to others if apprehension is delayed. Caution must be used to assure the ramming does not jeopardize other persons or property. Members pursuing a motorcycle will not use ramming as a means to stop the violator. Ramming a vehicle should be considered deadly force.

Daytona Beach Police Department
TITLE: VEHICLE PURSUITS ...
DATE OF ISSUE: 05-01-2000
EFFECTIVE DATE: 05-01-2000 POLICY ...
PROHIBITED PURSUIT ACTIONS...
51.1.44 While pursuing, officers shall not ram or conduct rolling roadblocks unless specifically authorized by a command level officer. Additionally, the discharge of firearms at moving vehicles is prohibited unless the use of deadly force is in accordance with appropriate departmental directives if, based on the supervisors or officer judgment, the danger to the officers involved and the general public outweighs the need to stop the fleeing vehicle.

Florida Highway Patrol
SUBJECT: USE OF VEHICLES IN PATROL/PURSUITS
ISSUE DATE: 02/01/96
EFFECTIVE DATE: 02/01/96
17.05.05 PROCEDURES ...
H. PURSUIT OPERATIONS, TACTICS, AND PROHIBITIONS
Members shall comply with the following provisions:
1. OFFENSIVE TACTICS - In the course of pursuit, deliberate contact between vehicles or forcing the pursued vehicle into parked cars, ditches or any other obstacle, boxing in, heading off, ramming, rolling roadblocks, or driving alongside the pursued vehicle while it is in motion is prohibited.

Hillsborough County Sheriff's Department
STANDARD OPERATING PROCEDURE
Date: 12/14/93; Revised: 07/16/01
VIII. CONDUCT OF THE PURSUIT:...
D. Other Methods Used to Apprehend Moving Vehicles...
5. Ramming - Deputies shall not intentionally ram a suspect's vehicle. This method is considered DEADLY

FORCE and should not be used because of airbags and mechanical kill switches which may be activated upon impact.

Melbourne Police Department
TITLE: VEHICULAR PURSUITS ...
EFFECTIVE DATE: 07/01/00
POLICY H.702.3 While In Pursuit...
14. Units should not utilize the PIT (Pursuit Intervention Technique) unless deadly force is authorized (F.S. 776.06). Approval from a command officer should also be obtained, unless the use of such force is immediately necessary to protect human life from death or great bodily harm.

Monroe County
4) Emergency Vehicle Operation, Tactics, and Prohibitions- Members shall comply with the following provisions:
a) Offensive tactics - In the course of pursuit, deliberate contact between vehicles or forcing the pursued vehicle into parked cars, ditches or any other obstacle, boxing in, heading off, ramming, running roadblocks or driving alongside the pursue vehicle while it is in motion is prohibited.

Orlando Police Department
POLICY AND PROCEDURE OP-68, VEHICLE PURSUITS
EFFECTIVE: 3/08/04...
2.1.2 WHILE IN PURSUIT
The following tactics and conditions will be adhered to while engaged in a pursuit: (17.07b,c)...
m. Units may not ram a fleeing vehicle unless deadly force is authorized. Approval from a watch commander must also be obtained, unless the use of such force is immediately

necessary to protect human life from death or great bodily harm. (17.07f,g)

St. Lucie County Sheriff's Office
Effective: April 1, 2002
Title: Motor Vehicle Pursuits ...
XII. FORCIBLE STOPPING OF VEHICLE: ...
B. If it is reasonably believed that a delay in the apprehension of the pursued suspect represents an impending threat of grave injury or death to any person, the deputies involved might have to resort to the following methods:...
2. Ramming or Boxing-in: Deputy(s) are discouraged from ramming or boxing-in fleeing suspect(s). These methods should be considered deadly force and will be fully explained by the pursuing deputy at the termination of the pursuit.

Volusia County Sheriff's Office
TITLE: MOTOR VEHICLE APPREHENSION
EFFECTIVE: 10-2001
CONDUCTING THE PURSUIT...
PROHIBITED DRIVING...
41.2.45 While pursuing, Deputies shall not ram, conduct rolling roadblocks or discharge firearms at a fleeing vehicle.

GEORGIA

College Park Police Department
40.5 Pursuing Fleeing Suspects...
40.5.4 Pursuit Tactics
Forcible Stop Techniques - The department allows vehicle contact actions or other forcible stop techniques to terminate a pursuit only when all of the following conditions have been satisfied:

- there is sufficient legal justification for the use of deadly force; and
- a supervisor has authorized such action if feasible; and
- you have been properly trained in the application of the selected technique.

Georgia Model Pursuit Policy
8/23/03
S.O.P. 12-2 VEHICLE PURSUIT ACTIONS
PROHIBITED PRACTICES...
5. An officer will not bump or ram a pursued vehicle, unless otherwise ordered to do so by the field supervisor.

Peachtree City Police Department
SUBJECT: Vehicle Pursuit Actions
DATE: 10-23-01
IV. PROCEDURE
G. RESPONSIBILITIES OF SUPERVISOR...
4. The Watch Commander will be the only one who, with adequate justification may authorize:...
b. The boxing in, heading off, or ramming of a pursued vehicle.

HAWAII

Hawaii Police Department
MOTOR VEHICLE PURSUIT
Revised: 05-13-91 ...
IV. RESTRICTIONS...
D. Ramming, boxing-in or blocking the roadway with police vehicles is prohibited in pursuit situations.

INDIANA

Indiana State Police
Subject: Pursuit/Emergency Driving and Roadblocks
Effective Date: July 25, 2001...
III. PROCEDURE...
L. The Use of Deadly Force policy, stated in the Department regulations, shall be a primary consideration governing pursuits and subsequent roadblocks....
2. Using a police vehicle as a weapon shall be viewed with the same regard as using a deadly weapon. Such use shall be considered only as a last resort when the officer reasonably believes the officer must use such force to prevent imminent serious bodily injury to the officer or a third person.

IOWA

Iowa City Police Department
POLICE VEHICLE PURSUITS
Date of Issue: February 10, 1999
Effective Date: March 1, 1999
IV. PROCEDURES...
F. Pursuit Tactics ...
7. Ramming will only be considered to stop a fleeing vehicle as a last resort, and then only in those extreme cases where the use of deadly force is justified to prevent injury or death to the officer or other persons. The officer must consider the extreme danger to himself/herself, occupants of other vehicles and other users of the roadway. Permission to make deliberate contact with the offender's fleeing vehicle will be received from the supervisor prior to initiation of the act.

MINNESOTA

Minnesota Police Pursuits Model Policy
PB Rev: 5/03
III. PROCEDURE ...
C. Responsibilities of the Primary Unit ...
3. No officer will intentionally make vehicle-to-vehicle contact unless in conformance with agency policy on use of force (see agency policy on use of force).

Minnesota State Patrol
Effective Date: April 1, 2001
Subject: Pursuit...
IV. Pursuit Guidelines...
J. Pursuit Tactics
1. The deliberate striking (ramming) of a pursued vehicle with a state unit at speeds greater than allowed for use of a Pursuit Intervention Technique (PIT) shall be considered deadly force and is justified by troopers only when necessary:
a. to protect themselves or another from apparent death or great bodily harm;
b. to effect the arrest or capture, or prevent the escape of a person whom the trooper knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
c. to effect the arrest or capture, or prevent the escape of a person when the trooper knows or has reasonable grounds to believe has committed or attempted to commit a felony if the trooper reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.
2. Troopers may employ the Pursuit Intervention Technique (PIT) against a pursued vehicle in order to terminate a pursuit c prevent a pursued vehicle from continued operation under the following circumstances:

a. when all other means of apprehension have been considered and rejected as impractical;
b. only at speeds of 40 mph or less on straight roadways or 25 mph or less in cornering situations; ...

Isanti Police Department
TITLE: Pursuit Policy
DATE EFFECTIVE: Supersedes all previous Pursuit Policies
USE OF AFFIRMATIVE METHODS
"Affirmative methods" are those measures which are intended to bring about an end to the pursuit when a fleeing violator's actions are posing an unreasonable risk of death or great bodily harm to others. Whenever affirmative methods are used, reasonable measures shall be taken to safeguard the lives of innocent persons not involved in the pursuit.
Examples of affirmative methods are as follows: ...
3. Ramming - Ramming the fleeing vehicle is not permitted unless the officer is currently trained in pursuit intervention tactics.

City of Mankato Department of Public Safety
Date: 10-02-1989
Revision: 07-22-1992
Pursuit/Emergency Vehicle Operation 3-165.005
PROCEDURE FOR PURSUIT:
F. The deliberate striking, ramming, or total blocking of a roadway by a police vehicle constitute "deadly force" and are permitted only to protect the officer or general public from death or great bodily harm when no other means of stopping the vehicle is available.

Minneapolis Police Department
407.03 VEHICLE CONTACT
Vehicle contact, rolling roadblocks and roadblocks may only be used when state law permits use of deadly force. (See Volume 5, section on Justified Use of Force) (11/20/01)

Plymouth Police Department
EFFECTIVE DATE August 28, 1996
REVISED: January 11, 2005
SUBJECT: VEHICLE PURSUIT...
X. PURSUIT TACTICS:
A. Vehicle Contact:
1. Vehicle contact may be used only when in conformance with the Department Procedure on Use of Force and when state law permits the use of deadly force, unless the officer believes contact is necessary because the risk of personal injury, created by the continued pursuit, is greater than the risk of injury from the proposed action. Factors to consider when assessing risks include the number and location of potential victims, the speed of the pursued vehicle, traffic conditions, the suspect's driving conduct, and the length of the pursuit.

MISSOURI

Kansas City Police Department
Pursuits and Emergency Police Vehicle Operations
Date of Issue: 2/24/04
Effective Date: 3/10/04
II. ADMINISTRATIVE GUIDELINES ...
D. The use of push bars in a pursuit is prohibited.
POLICE VEHICLE PURSUIT PROCEDURE ...
D. Other Pursuit Issues ...
3. Police vehicles will not be used to ram pursued vehicles.

St. Louis County Police
OFFICE OF THE CHIEF OF POLICE October 22, 2001 ...
II. DEFINITIONS ...
Bumping/Ramming: Deliberate contact by a police vehicle with the pursued vehicle from the front, rear or side. (Not authorized.)

NEVADA

Las Vegas Police Department
6/014.00 VEHICULAR PURSUIT...
USE OF THE PURSUIT IMMOBILIZATION TECHNIQUE (P.I.T.)
Without the willful compliance of the fleeing suspects to voluntarily bringing their vehicle to a stop, circumstances develop which may warrant a forcible stop. Primary and secondary units will exhaust all other means of apprehension before attempting forcible stops and will use only the minimal amount of force which is consistent with the accomplishment of the mission. The use of a vehicle to stop or apprehend a suspect, such as ramming or the use of P.I.T. may be considered a use of deadly force.

Reno Police Department
General Order Title: VEHICLE PURSUITS
Issued: January 3, 2006
PROCEDURES...
Legal Intervention/Emergency Tactics
Setting up roadblocks, using immobilization techniques, boxing in, firing weapons at or from moving vehicles, surrounding a suspect vehicle, as well as forcing vehicles off the road, are all extremely hazardous tactics and should be used only as a last resort when necessary to protect an officer or others from an immediate threat of death or serious physical injury, or to prevent a crime where the

suspect's actions place persons in immediate jeopardy of death or serious physical injury.

NEW HAMPSHIRE

Rochester Police Department
STANDARD OPERATING PROCEDURE
Date of Issue: 1/03/2007
Subject: Vehicle Pursuit
IX. EMERGENCY VEHICLE: VEHICLE PURSUIT...
E. Rules of Pursuit.
1. Intentional contact between police vehicles and the vehicle pursued is prohibited.
a. The forcible stopping of any vehicle through vehicular contact is prohibited. <42.2.3>

NEW JERSEY

New Jersey Police Vehicular Pursuit Policy
Issued: December 1985
Revised: January 1993
Revised: September 1999
Revised: December 2001...
III. VEHICULAR PURSUIT RESTRICTIONS ...
L. Officers involved in a pursuit shall not fire any weapon from or at a moving vehicle nor engage in any vehicle contact action except as a last resort to prevent imminent death or serious injury to the officer or another person where deadly force would otherwise be justified.

OHIO

Cincinnati Police Department
12.535 EMERGENCY OPERATION OF POLICE VEHICLES AND PURSUIT DRIVING
Rev. 07/01/03 Replaces 07/01/02
Policy: ...
Officers will not attempt to stop or slow a pursued vehicle by boxing in, heading off, ramming, or driving alongside during a pursuit.

Fairfield Police Department
3/5/03
41.2.2 Pursuits ...
II. Pursuit Operations ...
H. Roadblocks and ramming may be utilized when:
1. Deadly force is authorized.
2. All other efforts to effect apprehension have failed.
3. The shift supervisor has authorized the use of roadblocks or ramming.

Hamilton County Sheriff's Department
EMERGENCY OPERATION OF SHERIFF'S OFFICE VEHICLES:...
6. Overtaking and Ramming:
a. Officers will make no attempt to stop pursued vehicles by "boxing-in", heading-off, ramming, or driving alongside, during the pursuit.

City of Streetsboro Police Department
41.2.2 PURSUITS...
H. Alternative Strategies and Tactics...
3. Ramming of a suspect vehicle will only be considered if the use of deadly force would be justified, and also considering the extreme danger to the officers, occupants of other vehicles, and other users of the highway.

OREGON

Beaverton Police Department
GENERAL ORDER
SUBJECT: VEHICULAR PURSUITS
EFFECTIVE: AUGUST 1, 1999
REVIEW: AUGUST 2000, 2001, 2002, 2003, 2004
3. PROCEDURES...
D. General Guidelines. The following are general directives concerning a vehicle pursuit: ...
3. Unless specifically authorized by a supervisor, pursuing officers will not drive along side, ram, force off the road or box in the suspect vehicle. Such action may be approved only when the use of deadly force is authorized.

Portland Police Department
630.05 VEHICLE PURSUITS...
Pursuit Intervention Strategies (630.05)...
e. Ramming (deliberate): Using a police vehicle to purposely cause contact with another moving vehicle in order to bring that vehicle to a stop (except PIT). Ramming is considered deadly physical force and is subject to DIR 1010.10.

SOUTH CAROLINA

Spartanburg Public Safety Department
GENERAL ORDERS
Rescinds Policy 210-401 dated January 1, 1994
Rescinds Policy 510.2 dated 1/12/98
Rescinds Policy 510.2A dated 09/30/00
REGULATIONS AND TACTICS DURING PURSUIT...
C. Offensive Tactics. In the course of the pursuit, deliberate contact between vehicles or forcing the pursued vehicle into parked cars, ditches, or any other obstacle; boxing in, heading off, ramming or driving alongside of the

pursued vehicle while it is in motion shall be prohibited unless such actions are specifically authorized by the supervisor. Such actions may be approved only when the use of deadly force would be authorized. Any pursuing vehicle shall not duplicate reckless or hazardous driving maneuvers.

SOUTH DAKOTA

Rapid City Police Department
SUBJECT: Motor Vehicle Pursuits
SUPERSEDES: 04-01
EFFECTIVE: 10-19-05
POLICY...
B. PURSUIT PROCEDURES...
4. Deliberate physical contact between vehicles will not be justified, except in the following circumstances:
a. When officers are in pursuit of known and extremely dangerous fleeing felons who, if allowed to escape, would create a substantial risk of another person being killed or seriously injured, or
b. Except under orders of a supervisor.
Because of the potential dangers involved, pursuing officers are not to pull alongside a fleeing motorist in an attempt to force the subject into a ditch, curb, parked car, or any other obstacle, except as set forth above.

TEXAS

El Paso County Sheriff's Office
Effective Date: 06/30/03
Supercedes: 01/14/03
Subject: VEHICLE PURSUITS ...
IV. PROCEDURES: ...
A. WHEN PURSUITS ARE AUTHORIZED: ...

9. Deputies will not use roadblocks, "ramming", or "boxing in" methods unless deadly force is deemed necessary as outlined in CRS 18-1-707 as amended.

Lubbock Police Department
EMERGENCY DRIVING/PURSUIT ...
SECTION 5 USE OF FORCE IN VEHICULAR PURSUIT
A. GENERAL PROVISIONS. The following measures shall be taken ONLY when established departmental policy would allow the use of deadly force:
1. Intentional striking or ramming of the suspect's vehicle by any portion of the police vehicle;

Potter County Sheriff's Department
Subject: Vehicle Pursuits and Road Blocks
Effective Date: May 31, 2003
B. Vehicle Pursuits:...
7. Pursuit Tactics...
b. Officers may not intentionally use their vehicle to bump or ram the suspect's vehicle in order to force the vehicle to a stop off the road or in a ditch.

The Colony Police Department
POLICY NUMBER: 4.7
GENERAL ORDER
DATE OF ISSUE: OCTOBER 1, 1996
REVISED: JUNE 1, 1997, JULY 10, 2000
PROCEDURES: ...
V. Limitations ...
C. Ramming is strictly prohibited.

Waco Police Department
Title: Emergency Vehicle Operations
Effective: 2007
Cancels: 05-07-01...
Vehicular Pursuits...

L. Use of Force...
2. A suspect posing a deadly force threat may be immobilized using a police vehicle.
3. Vehicular forcible stopping techniques (often referred to as: Ramming, Roadblocks, Moving Roadblocks, PIT Maneuver, etc.) used to end/immobilize a pursuit or potential deadly force threat, may be used if all of the following conditions are met:
a. The officer has been trained in the use of the technique they intend to deploy;
b. The officer is justified in using deadly force against a suspect inside the motor vehicle; and
c. A supervisor must have approved the use of one of the techniques listed above (prior to its use) unless the officer had no time to obtain supervisory approval prior to the use of the technique.

UTAH

Utah Vehicle Pursuit Model Policy
V. PROCEDURE
A. Restrictions
3. The use of forcible stops such as roadblocks and ramming are a last resort measure and should be used only when the use of deadly force is justified.
a. Forcible stops may be undertaken only when the officer or a supervisor has reason to believe that the continued movement of the pursued vehicle would place others in imminent danger of great bodily harm or death AND . . .
c. After all reasonable alternative means of apprehension have been considered and rejected as impractical.

VIRGINIA

Virginia Model Pursuit Policy
EFFECTIVE DATE: July 1, 1999
AMENDS/SUPERSEDES: January 1988...
V. PROCEDURES FOR EMERGENCY DRIVING ...
G. Rules of pursuits
1. Officers shall not intentionally ram, bump, or collide with a fleeing vehicle nor shall officers pull alongside such vehicles in an attempt to force them off the road or into an obstacle.

Fredericksburg Department of Police
Subject: Vehicular Pursuits
Effective Date: April 25, 2006...
C. PURSUIT GUIDELINES: (41.2.2 A, B, C, D, F, H)
Forcible measures to stop a fleeing driver are prohibited except where deadly force is appropriate....
E. PURSUIT TACTICS: (41.2.2 G, 61.3.4)...
3. ROADBLOCKS and RAMMING: (61.3.4)...
c. Ramming is an unsafe act. Ramming is authorized only when a "Use of Deadly Force" is necessary and authorized.

WASHINGTON

Des Moines Police Department
5.08.00 VEHICLE RAMMING/ROADBLOCKS ARE DEADLY FORCE:
An automobile used to force a vehicle off the road or for barricading of a roadway is considered deadly force. Such methods shall not be used unless it is necessary to apprehend a fleeing suspect and is consistent with the requirements of RCW 9A.16 regarding the use of deadly force to apprehend a fleeing felon.

Whatcom County Sheriff's Office
Effective Date: Oct. 1, 2004
Expiration: Remains effective until revised or rescinded.
PURSUIT OF MOTOR VEHICLES
23.5 METHODS OF FORCIBLE STOP
23.5.3 Intentional Intervention (Ramming)
Intentional intervention of a vehicle is a deliberate act of ramming the suspect vehicle with a patrol vehicle for the purpose of functionally damaging or forcing the suspect vehicle off the roadway. Intentional intervention should be considered deadly force and must be used only in the most exigent circumstances due to the possibility of airbag deployment and potential for injury to suspects and deputies.

WISCONSIN

City of Racine Police Department
Date Issued: 10-31-86
Effective Date: 11-12-04
Traffic and Ordinance Violations:
Legal Intervention (ramming or roadblocks) shall be considered the use of deadly force; therefore all deadly force limitations apply. Legal intervention should be used only under the expressed permission of the commanding officer, unless conditions require immediate action.

APPENDIX C: CHART ON RAMMING OR BUMPING

Municipal Pursuit Policies

Policy	Ramming Prohibited	Ramming Deadly Force	Discretionary
Chandler, AZ	X		
Oakland, CA	X		
Citrus County, FL		X	
Daytona Beach, FL		X	
Hillsborough County, FL	X		
Melbourne, FL		X	
Monroe County, FL	X		
Orlando, FL		X	
St. Lucie County, FL		X	
Volusia County, FL	X		
College Park, GA		X	
Peachtree City, GA			X
Iowa City, IA		X	
Isanti County, MN			X
Mankato, MN		X	
Minneapolis, MN		X	
Plymouth, MN		X	
Kansas City, MO	X		

Policy	Ramming Prohibited	Ramming Deadly Force	Discretionary
St. Louis County, MO	X		
Rochester, NH	X		
Las Vegas, NV		X	
Reno, NV		X	
Cincinnati, OH	X		
Fairfield, OH		X	
Hamilton County, OH	X		
Streetsboro, OH		X	
Beaverton, OR		X	
Portland, OR		X	
Spartanburg, SC		X	
Rapid City, SD		X	
El Paso County, TX		X	
Lubbock, TX		X	
Potter County, TX	X		
The Colony, TX	X		
Waco, TX		X	
Fredericksburg, VA		X	
Des Moines, WA		X	
Whatcom County, WA		X	
Racine, WI		X	

State and Model Pursuit Policies

Policy	Ramming Prohibited	Ramming Deadly Force	Discretionary
Connecticut State			X
Florida Highway Patrol Policy	X		
Georgia Model Policy		X	
Hawaii Police	X		
Indiana State Police		X	
Minnesota Police Pursuits Model Policy		X	
Minnesota State Patrol		X	
New Jersey Uniform Pursuit Policy		X	
Utah Model Policy		X	
Virginia Model Policy	X		

Federal Policies

Department of the Treasury		X	

Other Policies

International Association of Chiefs of Police (IACP)		X	